

**Remarks:****Drawings**

The drawings were objected to for not being separately labeled. Applicant has concurrently filed with the Amendment a set of corrected drawings to the Draftsman. Courtesy copies of the corrected drawings are enclosed.

**Information Disclosure Statement:**

The Examiner noted that no Information Disclosure Statement has been filed in the application.

Applicant has concurrently filed with this amendment a PTO-1449 (modified) that lists the references cited in the International Search Report (ISR). It is noted that copies of the references cited in the ISR have already been received by the Office. Applicant requests that the listed references be included in the "References Cited" portion of any patent issuing from this application.

**In the Specification:**

The Examiner objected to the specification for various informalities. The Examiner suggested amending the specification to include an introductory phrase in the claims section. The Examiner noted that the Abstract and Brief Description of the Drawings was missing. The Examiner also asserted that there were no line numbers in the specification.

In the Amendment Applicant has added the suggested introductory phrase to the claims section, and has included paragraphs directed to the Brief Description of the Drawings. The description provided in this section conforms to the Examiner's suggestions for labeling the Figures as described on the PTO-948.

Applicant has also provided herewith an Abstract on a separate paper.

Applicant submits that the specification pages as filed already include line numbers.

Entry of the amendments to the specification and reconsideration of the objections to the specification in view thereof are respectfully requested.

Claims

The number of total claims and of independent claims remains less than the amount for which fees were previously paid. Notwithstanding, Applicants hereby authorize the Commissioner to charge any additional claim fees required by entry of this Amendment to Deposit Account No. 50-0258.

Claims 60 and 62 have been cancelled. Claim 55 and 59 have been amended to more clearly recite the present invention. Claim 63-68 have been added. Support for this amendment is either apparent, or is as described in the text below. Support for claim 64 can be found, for example, at page 39, lines 1-5. Support for claim 65 can be found, for example, at page 39, lines 10-25. Support for claims 66 and 67 can be found, for example, at page 40, lines 15-17. Support for claim 68 can be found, for example, at page 6, lines 21-26, and at page 7, lines 13-19. No new matter is added.

Claim Rejections under 35 U.S.C. §112, second paragraph

Claims 55-62 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner alleged that the recitation of the term “matching” in claim 55 rendered the claim vague and indefinite.

Without conceding the correctness of the rejection, Applicant has amended the claim to more particularly and distinctly claim the subject matter of the invention. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 62 was also rejected under 35 U.S.C. 112, second paragraph, specifically for the recitation of the terms, “one other M. catarrhalis antigen”, and for insufficient antecedent for the term “vaccine.”

Without conceding the correctness of the rejection, solely to expedite prosecution, Applicant has cancelled claim 62. Reconsideration of the rejection in view thereof is respectfully requested.

*Claim Rejections under 35 U.S.C. §102(a)*

Claims 55-62 stand rejected under 35 U.S.C. §102(a) as being anticipated by Martin et al. In particular, the Examiner asserts that Martin et al. discloses outer membrane protein from whole cell lysate preparations from clinical isolates that contain nine meningococcal strains. The Examiner notes that monoclonal antibodies were produced by immunizing mice with the OM preparation, indicating that the disclosed outer membrane protein was immunogenic. The Examiner alleges that the disclosed composition, i.e., whole cell lysates from *N. meningitidis* in buffer inherently comprise the amino acid sequence as set forth in SEQ ID NO:2.

Applicant respectfully disagrees. A claim is anticipated only if each and every element is found, either expressly or inherently described, in the reference. *See* MPEP 2131. Moreover, the identical invention must be shown in as complete detail as is contained in the claim. Applicant submits that Martin et al. does not identically disclose Applicant's isolated polypeptide. Abiding by these standards, Martin et al. does not anticipate the invention as presently claimed. Accordingly, reconsideration of the rejection is respectfully requested.

Closing Remarks

Applicant thanks the Examiner for the Office Action and believe this response to be a full and complete response to such Office Action. Accordingly, favorable reconsideration in view of this response and allowance of the pending claims are earnestly solicited.

FEE DEFICIENCY

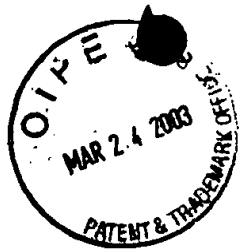
- ☒ If an extension of time is deemed required for consideration of this paper, please consider this paper to comprise a petition for such an extension of time; The Commissioner is hereby authorized to charge the fee for any such extension to Deposit Account No. 50-0258.
- and/or
- ☒ If any additional fee is required for consideration of this paper, please charge Account No. 50-0258

Respectfully submitted,



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## ABSTRACT

The invention provides BASB040 polypeptides and polynucleotides from *Neisseria meningitidis* encoding BASB040 polypeptides and methods for producing such polypeptides by recombinant techniques. Also provided are diagnostic, prophylactic and therapeutic uses.